



**UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office**

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

CB

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
-----------------	-------------	----------------------	---------------------

09/695,338 10/24/00 APOSTOLOPOULOS

L

EXAMINER

PM82/0328

JAMES C SIMMONS
THE LAW OFFICE OF JAMES C SIMMONS
11 FALMOUTH LANE
WILLIAMSVILLE NY 14221

CHIN SHUE A
ART UNIT PAPER NUMBER

3634
DATE MAILED:

03/28/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/695338

Applicant(s)

Apostolopoulos

Examiner

A. Chen Shue

Group Art Unit

3634

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☐ Responsive to communication(s) filed on _____.
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 2-26 is/are pending in the application.
Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 2-26 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
 - ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
 - ☐ received in Application No. (Series Code/Serial Number) _____.
 - ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other _____

Office Action Summary

Art Unit: 3634

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 11-14 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-13 of U.S. Patent No. 6,135,240.

Although the conflicting claims are not identical, they are not patentably distinct from each other because the omission of an element and its use, would have been an obvious mechanical expedient.

Claims 15-26 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-13 of U.S. Patent No. 6,135,240 in view of Deck. Deck shows the provision of a slot of a size to receive an eyelet of a releasable securing means 22 having a threaded end and nut. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the

Art Unit: 3634

platform of pat. '240 with a slot sized as claimed and a releasable securing means as claimed in lieu of the claimed securing means of pat. '240 to facilitate securement.

Claims 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Margaritis in view of either Brumfield, Proulx, Hanses, or Vanacker. Margaritis shows the claimed platform with the exception of the corrugated panels. Brumfield, Proulx, Hanses, and Vanacker all show corrugated panels. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide corrugated panels to Margaritis for his load bearing floor (column 4, line 36) to enable a maximized strength to weight ratio support with receptacles.

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Margaritis and either Brumfield, Proulx, Hanses, or Vanacker as applied to claim 11 above, and further in view of Deck. Deck shows a releasable securing means having two parts. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a securing means to Margaritis as claimed for securing the flooring sections to his cable.

Claims 15-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Margaritis in view of Sturgis and Deck. Margaritis shows the claimed platform with the exception of the claimed flooring section and securing means. Sturgis shows flooring

Art Unit: 3634

sections secured to cables to provide a walking surface. Deck shows the claimed securing means. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Margaritis to comprise flooring sections secured as claimed to facilitate assembling and removal of same. Furthermore, to use conventional corrugated flooring sections for their known advantages, would have been an obvious mechanical expedient.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 2-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The above claims improperly depend from a canceled claim 1.

Any inquiry concerning this communication should be directed to Alvin Chin-Shue at telephone number (703) 308-2475. A message can be recorded at the above number at anytime.

Application/Control Number: 09/695338

Page 5

Art Unit: 3634

The fax phone number for this group is (703) 305-3597.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number (703) 308-2168.

A handwritten signature in black ink, appearing to read 'Alvin Chin-Shue', with a long horizontal flourish extending to the right.

Alvin Chin-Shue

Primary Examiner

Art Unit 3634